

ORDINANCE _____

AN ORDINANCE relating to conduct in public places; establishing nighttime disturbance as a civil infraction, creating a new section 15.48.050 of the Seattle Municipal Code and amending section 15.48.900 relating to penalties for nighttime disturbance.

WHEREAS, in December 2007 the City Council passed Resolution 31003 to create a Nightlife Advisory Board to advise the Council in 2008 and 2009 regarding nightlife issues; and

WHEREAS, Resolution 31003 noted the City Council seeks to support, maintain and promote an active and safe environment that fosters a successful music and nightlife industry, and that increasing density in the City's urban centers and villages has created the demand for balancing neighborhood livability with vibrant nightlife activity; and

WHEREAS, the Nightlife Advisory Board consisted of representatives from neighborhoods and the music and nightlife industry, a noise expert, a Liquor Control Board member, and a representative with public safety experience; and

WHEREAS, the Nightlife Advisory Board's duties included advising the City Council regarding policy issues related to the City's promotion, development and sustainability of the nightlife industry in Seattle, including the effectiveness of the City's enforcement of nightlife related regulations; and emerging nightlife issues related to increasing density in urban villages and centers; and developing possible recommendations for improvements to the rules and processes associated with regulating nightlife activities; and

WHEREAS, in December 2009 the Nightlife Advisory Board issued its Final Report, and recommended the City Council "Revise City Ordinances to allow Seattle Police greater ability to enforce public nuisances and disturbances violations, specifically fighting and drunk and disorderly conduct...and for officers to issue a citation in the form of a ticket to those who do not correct or cease the behavior;" and

WHEREAS, the Nightlife Advisory Board has issued a statement stating that it "agrees that this recommendation provides the greatest opportunity to address undesirable behavior and thus address one of the biggest problems often associated with nightlife," and

WHEREAS, this ordinance is a critical component of the broader Seattle Nightlife Initiative, which envisions a full suite of actions that together provide a comprehensive, balanced approach to managing the city's nighttime economy.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Section 15.48.050 of the Seattle Municipal Code is added as follows:

SMC 15.48.050 Nighttime disturbance

A. The following definitions apply in this section:

1. "Nighttime zone" means the Downtown and Commercial Zones as defined by Seattle Municipal Code 23.84A.048.

2. "Public place" means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public and the doorways and entrances to buildings or dwellings and the grounds enclosing them. "Public place" does not include areas of private property where tables and chairs are placed for the use of patrons consuming food and/or beverages.

3. "Threaten" means to communicate, directly or indirectly, the intent to assault, fight with or cause bodily injury to another.

4. "Unreasonable noise" means loud and raucous, and frequent, repetitive, or continuous sounds that are audible to a person of normal hearing at a distance of seventy-five (75) feet or more from the source of the noise. Unreasonable noise may be created by:

a. The amplified or unamplified human voice;

b. Any horn or siren attached to a motor vehicle, except such sounds that are made to warn of danger or that are specifically permitted or required by law;

c. The starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine.

B. It is unlawful for any person in a public place located in a nighttime zone between the hours of twelve o'clock (12:00) a.m. and five o'clock (5:00) a.m. to:

~~a~~1. Cause or make unreasonable noise; or

~~b~~2. Threaten another person or persons; or

e3. Fight with another person or persons.

Section 2. Seattle Municipal Code 15.48.900, last amended by Ordinance 122789, is amended as follows:

SMC 15.48.900 Civil penalty.

A. Each violation of Section 15.48.040 shall be a civil infraction as contemplated by RCW Chapter 7.80 and deemed to be a Class 3 civil infraction under RCW 7.80.120(c), and shall subject the violator to a maximum penalty and a default amount of Fifty Dollars (\$50) plus statutory assessments. If the person is unable to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty.

B. Each violation of Section 15.48.050 shall be a civil infraction as contemplated by RCW Chapter 7.80 and deemed to be a Class 2 civil infraction under RCW 7.80.120(1)(b), and shall subject the violator to a maximum penalty and default amount of One Hundred Twenty-Five Dollars (\$125) plus statutory assessments. The total penalty and default amount, including statutory assessments, shall be set at One Hundred Twenty-Five Dollars (\$125).

~~((B-))~~ C. Each violation of Section 15.48.105 shall be a civil infraction as contemplated by RCW Chapter 7.80 and deemed to be a Class 1 civil infraction under RCW 7.80.120(a), and shall subject the violator to a maximum penalty and default amount of Two Hundred Fifty Dollars (\$250) plus statutory assessments. The penalty for a civil infraction is in addition to the civil liability of the person responsible for the posting to the City for the cost of removal under Sections 15.48.120 and 15.48.130.

~~((C-))~~ D. As contemplated by RCW 7.80.160, a person who, after receiving a notice of civil infraction that includes a statement of the options provided in RCW Chapter 7.80 for responding to the notice and the procedures necessary for exercising these options, knowingly

1 fails to exercise one of the options within fifteen (15) days of the date of the notice is guilty of a
2 misdemeanor regardless of the disposition of the notice of civil infraction. A person who
3 willfully fails to pay a monetary penalty or perform community service as ordered by a court
4 may be found in contempt of court as provided in chapter 7.21 RCW

5 ((D-)) E. An action for a civil infraction shall be initiated and process in the manner
6 contemplated by RCW Chapter 7.80 and the Infraction Rules for Courts of Limited Jurisdiction.
7 For purposes of RCW 7.80.040, the "enforcement officer" authorized to enforce the provisions of
8 this title are: (1) as to park drives and boulevards, the Superintendent of Parks and Recreation,
9 and as to other public places, the Director of the Seattle Department of Transportation; (2)
10 authorized representatives or assistants of either of them; and (3) a commissioned officer of the
11 Seattle Police Department and a person issued a Special Police Officer Commission by the Chief
12 of Police with authority to enforce this title.
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15 **Section 3.** The Chief of Police and City Attorney shall provide a report to the City
16 Council on the implementation of this ordinance by the end of the second-third quarter of 2011.
17 The report shall describe the number of citations written by police officers for nighttime
18 disturbance, the disposition of those citations and the general locations where the citations were
19 issued. The report shall also include a review by the Chief of Police and City Attorney on the use
20 of the ordinance in reducing nighttime disturbances.
21

22 **Section 4.** The provisions of this ordinance are declared to be separate and severable. If
23 one or more of the provisions of this ordinance shall be declared by any court of competent
24 jurisdictions to be contrary to law, the provision shall be severed from the rest of the ordinance
25 and all other provisions shall remain valid.
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July 23, 2010

Violet

Version #45

Section 5. ~~This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020. This ordinance shall take effect and be in force on whichever is the later of: (a) the effective date of approval of the amendments in this ordinance by the Washington State Department of Ecology, which date is no later than ninety days after submittal to the Department of Ecology; or (b)(i) thirty (30) days from and after approval by the Mayor or, (ii) if not approved and returned by the Mayor within (10) days after presentation, then as provided by Municipal Code Section 1.04.020.~~

Passed by the City Council the ____ day of _____, 2010, and signed by me in open session in authentication of its passage this ____ day of _____, 2010.

President _____ of the City Council

Approved by me this ____ day of _____, 2010.

Michael Patrick McGinn, Mayor

Filed by me this ____ day of _____, 2010.

City Clerk

(Seal)

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